

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 7216

BILL NUMBER: SB 459

NOTE PREPARED: Apr 8, 2013

BILL AMENDED: Apr 8, 2013

SUBJECT: Local Government Reorganization.

FIRST AUTHOR: Sen. Miller Pete

FIRST SPONSOR: Rep. Steuerwald

BILL STATUS: 2nd Reading - 2nd House

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) *Funds and Taxes:* The bill specifies that after a local government reorganization, a reorganized political subdivision may (except as provided in the plan of reorganization) do any of the following:

- (1) Establish any fund that one or more of the reorganizing political subdivisions were authorized to establish before the reorganization.
- (2) Impose any tax levy or adopt any tax that one or more of the reorganizing political subdivisions were authorized to impose or adopt before the reorganization.

Reorganizations, Mergers, Cooperation Agreements, and Combinations: It provides that in the case of:

- (1) a local government reorganization;
- (2) a township merger;
- (3) a transfer or sharing of powers, duties, functions, or resources under an interlocal cooperation agreement; or
- (4) a combination or reorganization of a political subdivision's departments, agencies, or functions;

the reorganizing or merging local governments shall specify in the reorganization plan or in the cooperative agreement or other agreement the amount (if any) of the decrease that the Department of Local Government Finance (DLGF) shall make to the maximum property tax levies, maximum property tax rates, and budgets of the political subdivision to eliminate double taxation or eliminate any excess by which the amount of property taxes imposed by the political subdivision exceeds the amount necessary to pay for services.

Township Mergers: The bill provides the following regarding a township that merges with another township:

- (1) The new township may use any funds that are not needed to deliver services to pay the indebtedness of the new township government.
- (2) After satisfaction of the indebtedness, the new township may do the following with any remaining excess funds:
 - (A) Transfer the funds to the county or a municipality having jurisdiction within the new township to make improvements to infrastructure located within the new township.
 - (B) Transfer the funds to a transportation corporation that offers service within the area of the new township.
 - (C) Use the funds for improvement of any fire department that serves the area of the new township.
 - (D) Transfer the funds to a political subdivision that has jurisdiction within the new township for improvement of any fire department that provides service within the area of the new township.

The bill requires the DLGF to assist township mergers and prohibits the DLGF from preventing or delaying township mergers. It removes the requirement that a county legislative body adopt an ordinance ordering a township merger after the legislative bodies of the merging townships adopt resolutions approving the merger. It also removes provisions that prohibit a merger from being approved less than one year before the merger becomes effective. The bill provides that a township merger may reduce the term of office of a township trustee.

Equipment Replacement Fund: The bill provides that in the case of a government reorganization that involves one or more municipalities and one or more townships, all of which are participating units in a fire protection territory on the date the reorganization is approved by voters, the fiscal body of the reorganized political subdivision that results from a reorganization may establish an equipment replacement fund under the fire protection territory law and impose a property tax for the fund and take any other action under the fire protection territory law that may be taken by a participating unit in a fire protection territory. It specifies that the requirements and procedures in the statute governing the establishment of a cumulative fund and the imposing or increasing of a property tax rate for a cumulative fund also apply to an equipment replacement fund established for a fire protection territory.

Township Mergers within Marion County: The bill allows townships in a county having a consolidated city to merge. It provides the following regarding a merger of townships in a county having a consolidated city:

- (1) A merger does not affect the small claims courts or judges of the small claims courts or reduce the terms of constables. Provides however that at the end of the constables' term the constable offices are consolidated into one elected office for the merged township.
- (2) Prohibits, as a result of a merger, the expansion of a township fire department or fire protection territory into the fire special service district of the consolidated city or a township that has consolidated its fire department or fire protection territory.

Effective Date: Upon passage; July 1, 2013.

Explanation of State Expenditures: *Department of Local Government Finance (DLGF):* The political subdivision, agreement, or plan of reorganization would be required to eliminate double taxation by different political subdivisions or eliminate any excess by which property tax revenue exceeds the amount necessary to pay for services. In most cases, the adjustments would be certified to the DLGF. The reduction in requirements

for the DLGF are routine administrative functions and should not affect the DLGF's appropriations, assuming near customary agency staffing and resource levels.

(Revised) Also, the bill allows for reorganizing political subdivisions to establish an equipment replacement fund and impose a tax for the fund in certain circumstance. The DLGF may adjust the maximum permissible property tax levy and property tax rate.

Background: Under current law, for reorganizations, mergers, cooperation agreements, and combinations, the DLGF adjusts the maximum permissible property tax levy and property tax rate to reflect the transfer of duties and responsibilities and reviews balances in political subdivision funds and determines if an excess balance exists. Current law specifies the amount the political subdivision may continue to levy or include in its budget for the first four years of the adjustment.

Explanation of State Revenues:

Summary of NET Local Impact: The bill will have indeterminate fiscal impact in the case of a local government reorganization, merger, cooperation agreement, combination, or the reorganization of a township and another political subdivision. The bill may facilitate the consolidation of governmental units by making provisions for fire services funding and to pay off certain debts when a township combines with another political subdivision; by allowing political subdivision to determine (directly or through an agreement or a plan of reorganization) if there is double taxation or excess tax, rather than the DLGF; and by allowing an entity reorganizing by referendum to establish a fund or impose a tax that at least one of the reorganizing entities previously had authority to establish or impose.

The merger of townships may be facilitated by allowing townships in Marion County to merge, by allowing townships to maintain excess funds to pay indebtedness or to transfer excess funds in certain circumstances, by allowing for the reduction of a township trustee's term, by instructing the DLGF to assist townships in merging, and by eliminating county approval of plans to merge.

To the extent that a reorganization, merger, cooperation agreement, or other combination provides efficiency, facilitating this reduction in governmental entities could reduce costs.

However, in providing for fire services funding and debt payoff in the reorganization of a township with another political subdivision, the bill may allow for continuation of certain costs in the near term. Additionally, reorganizing townships may use excess funds to pay indebtedness transferred to the new township government or for other specified purposes once the indebtedness is paid. And in the case of reorganizing townships in Marion County, the township small claims courts would continue.

Explanation of Local Expenditures: *Township Reorganizing with Another Political Subdivision - Township Assistance:* The reorganized unit would continue to pay township assistance for all residents in the township. Township residents outside of the reorganized territory would have the opportunity to object to the township assistance levy.

Township Mergers within Marion County: The merger of townships within Marion County would not result in reduction in the jurisdiction of the township small claims courts. However, at the end of the term of an elected constable, the offices could be combined, which could result in indeterminate cost savings if efficiencies

can be achieved.

Reorganizations, Mergers, Cooperation Agreements, and Combinations: Any cost savings generated by the consolidation of local units will depend on the circumstances of the political subdivisions merging and the efficiencies achieved. Political subdivisions, a cooperative agreement, or plan of reorganization will determine excess funds and duplicate taxation.

Explanation of Local Revenues: *Township Reorganizing with Another Political Subdivision - Firefighting Fund:* This bill would set the reorganized unit's maximum fire fund levy equal to the township's prior year maximum fire levy, *plus* normal growth at the state's growth quotient, *plus* any amount borrowed in the previous year under an emergency fire loan. The reorganized unit would not be permitted to take out an emergency fire loan.

Township Reorganizing with Another Political Subdivision - Cumulative Firefighting Building and Equipment Fund and Fire-Related and Emergency Borrowing Repayment: The bill will have indeterminate fiscal impact on a reorganized township, but it potentially increases the levy limit for fire-related expense and increases the term of repayment for fire-related or emergency debt. The taxpayers who were originally responsible for funding debt repayments will continue to be the responsible taxpayers after the reorganization.

Reorganizations, Mergers, Cooperation Agreements, and Combinations: In the case of a reorganization under the Government Modernization statute, unless stated otherwise in the plan of reorganization, the new political subdivision would be able to establish funds and levy taxes of the existing political subdivisions.

(Revised) Equipment Replacement Fund: In the case of a merger between at least one municipality and at least one township, the reorganized political subdivision may establish an equipment replacement fund. This authority would apply to reorganizations that occur after June 30, 2006, potentially affecting reorganizations that have already taken place.

Background: Under current law, the legislative body of a township may levy a tax with a cumulative fund tax rate not to exceed \$0.0333 on each \$100 of assessed valuation of property in the taxing district. Under this bill, the levy that results from the cumulative fire tax rate in a reorganized unit that includes a township would not be subject to maximum levy limitations.

In the case of a township or fire protection district, the cumulative fire levy is currently not subject to a maximum levy limit. However, if a municipality imposed a cumulative fire levy in 1984, then a part of a municipality's cumulative fire levy, up to the amount of the 1984 levy, is subject to the municipality's maximum levy limit.

In a case where a township and municipality reorganize, a part of what was the municipality's maximum levy limit could be made available for levies in funds other than the cumulative fire fund. However, under the current government reorganization statute, the DLGF must adjust maximum levies to, among other things, eliminate any excess by which the amount of taxes exceeds the amount necessary to pay for goods and services. So, depending on DLGF actions, this provision may not have any overall impact on property tax levies.

(Revised) Redevelopment Areas: The bill provides that the jurisdiction and control over a development area may be transferred from one municipality's redevelopment commission to the redevelopment commission of an adjacent municipality if the owners of 100% of the real property in the development area consent to the transfer. Before the transfer, one of the municipalities must have completed a reorganization.

Both fiscal bodies must adopt substantially similar ordinances or an interlocal agreement, and they must agree to transfer the geographic territory comprising the development area from the first municipality to the second.

The transfer may be made only if no tax increment from an allocation area within the development area has been pledged for the payment of bonds or the payment of lease rentals.

The authority to make such a transfer would expire December 31, 2013.

The transfer of the base AV from one municipality to another would cause property taxes to shift. With the loss of AV, the tax rate would increase in the municipality of origin. The remaining taxpayers would see higher tax bills because of the increased tax rate. On the other hand, tax rates would decline in the receiving municipality with the increase in AV, resulting in lower tax bills for property owners in that municipality.

Tax bills could go up or down for the taxpayers who own property in the transferred area, depending on how the new municipal tax rate compares to the old tax rate. TIF proceeds could also rise or fall depending on the rate comparison.

State Agencies Affected: Department of Local Government Finance.

Local Agencies Affected: Township reorganizations.

Information Sources:

Fiscal Analyst: Karen Firestone, 317-234-2106; Bob Sigalow, 317-232-9859.